



General Assembly

Substitute Bill No. 157

February Session, 2004

* _____SB00157BA_____030404_____*

AN ACT CONCERNING MORTGAGE RATE LOCK-INS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-705 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 36a-706, as amended by this act,
4 [and] 36a-707 and section 3 of this act, unless the context otherwise
5 requires:

6 (1) "First mortgage loan" means [any loan made to an individual, the
7 proceeds of which are to be used primarily for personal, family or
8 household purposes, which loan is secured by a mortgage upon any
9 interest in one-to-four-family residential, owner-occupied real
10 property located in this state which is not subject to any prior
11 mortgages. The term includes the renewal or refinancing of an existing
12 first mortgage loan] "first mortgage loan", as defined in section 36a-
13 485;

14 (2) "Mortgage broker" means "first mortgage broker", as defined in
15 section 36a-485, who is licensed or required to be licensed under
16 sections 36a-485 to 36a-498a, inclusive;

17 [(2)] (3) "Mortgage lender" means [any person engaged in the
18 business of making first mortgage loans, including, but not limited to,

19 banks, out-of-state banks, Connecticut credit unions, federal credit
20 unions, out-of-state credit unions and first mortgage lenders required
21 to be licensed under sections 36a-485 to 36a-498, inclusive] "mortgage
22 lender", as defined in section 36a-485, who is required to be licensed
23 under section 36a-485 to 36a-498a, inclusive, except that the term shall
24 include a bank, out-of-state bank, Connecticut credit union, federal
25 credit union and out-of-state credit union; and

26 [(3)] (4) "Mortgage rate lock-in" means [any] a written [agreement
27 with] or electronically transmitted confirmation issued to a mortgage
28 applicant [made] or the representative of such applicant by a mortgage
29 lender or [its] the lender's representative, prior to the issuance of a first
30 mortgage loan commitment, [in which the mortgage lender agrees]
31 stating that a particular rate, number of points or variable rate terms
32 will be the rate, number of points, or variable rate terms at which [it]
33 the lender will [lend] make the loan, provided the first mortgage loan
34 is closed [within] by a specified [period] date, and the applicant
35 qualifies for the loan in accordance with the lender's standards of
36 [credit worthiness] creditworthiness.

37 Sec. 2. Section 36a-706 of the general statutes is repealed and the
38 following is substituted in lieu thereof (*Effective from passage*):

39 (a) (1) No mortgage lender shall [enter into a mortgage rate lock-in
40 agreement unless such agreement is in writing] commit to a first
41 mortgage loan applicant or the applicant's representative that the
42 lender will make the loan at a specified rate if the loan is closed by the
43 expiration of a specified period of time except by issuing a mortgage
44 rate lock-in, and the period for which the terms are locked in is at least
45 as long as the mortgage lender's good faith estimate of the anticipated
46 time from when the mortgage loan application is submitted to the
47 lender to the time when such lender will be ready to close such loan,
48 taking into consideration current market conditions and the processing
49 requirements for the type of first mortgage loan in question. (2) In the
50 event a mortgage rate lock-in [agreement is executed] is issued after
51 the mortgage loan application is submitted to the lender, the minimum

52 period for which the terms may be locked in shall be the period
53 determined in accordance with subdivision (1) of this subsection, less
54 the number of days elapsed since the application was submitted to the
55 lender.

56 (b) Any first mortgage loan application for which a mortgage rate
57 lock-in [agreement] has been issued shall, unless it is denied in
58 accordance with the mortgage lender's standards of [credit worthiness]
59 creditworthiness, be closed at the terms specified in the mortgage rate
60 lock-in [agreement] regardless of whether the specified lock-in [period]
61 date has expired, unless the failure to close the first mortgage loan is
62 the result of the following: (1) The applicant has failed to provide
63 information or documentation required by the lender in a timely
64 manner; (2) the applicant or the applicant's attorney has failed to close
65 the first mortgage loan on or before the date specified by the mortgage
66 lender; (3) the applicant has failed to produce, at or before the closing,
67 all of the documentation specified by the mortgage loan commitment
68 as being required for closing; or (4) the applicant has provided or
69 omitted any information, in the application or subsequently, which
70 upon verification proves to be significantly inaccurate causing the
71 need for review or further investigation by the lender. Information is
72 significantly inaccurate if the information as verified would cause the
73 applicant to be disqualified for the type of first mortgage loan for
74 which the applicant has applied or would cause the secondary market
75 source for which the first mortgage loan is being originated to refuse to
76 purchase the loan.

77 (c) In any case where a first mortgage loan has not been closed, and
78 the application has not been rejected in accordance with the mortgage
79 lender's standards of [credit worthiness] creditworthiness, ninety days
80 after the filing of an application for a first mortgage loan with an initial
81 loan to value ratio of eighty per cent or less or one hundred twenty
82 days after filing an application for a first mortgage loan with an initial
83 loan to value ratio of more than eighty per cent, or a first mortgage
84 loan to be insured or guaranteed by any agency of the federal
85 government, or any state or municipal government, or any quasi-

86 governmental agency, whether or not there has been a mortgage rate
87 lock-in, the applicant shall be entitled upon written request, which
88 [must] shall be made [within] not later than thirty days [of] after the
89 expiration of the ninety or one hundred twenty day period, as
90 applicable, to a full refund of all funds paid to the mortgage lender
91 unless the failure to close was caused by the applicant for one of the
92 reasons set forth in subdivisions (1) to (4), inclusive, of subsection (b)
93 of this section or the applicant has requested a closing date which is
94 later than ninety days after application for a first mortgage loan with
95 an initial loan to value ratio of eighty per cent or less or one hundred
96 twenty days for a first mortgage loan with an initial loan to value ratio
97 of more than eighty per cent or which is to be insured or guaranteed
98 by any agency of the federal government, or any state or municipal
99 government, or any quasi-governmental agency.

100 (d) For the purposes of subsections (b) and (c) of this section:

101 (1) An applicant shall be deemed to have provided information or
102 documentation in a timely manner if such information or
103 documentation is delivered to the mortgage lender or a representative
104 [thereof within] of the mortgage lender not later than seven calendar
105 days after it is requested.

106 (2) If a written first mortgage loan commitment issued by a
107 mortgage lender contains any conditions to be satisfied by the
108 applicant, the mortgage lender shall specify a closing date no sooner
109 than seven calendar days after the issuance of [a written] such
110 commitment unless an earlier date is requested by the applicant.

111 (3) Any new information or documentation requested by the
112 mortgage lender within seven calendar days before the expiration of
113 any rate lock-in period shall serve to extend the rate lock-in period by
114 seven calendar days from the date of such request. Information or
115 documentation is not new if the request is made necessary by
116 inaccuracies in or omissions from previously provided information, by
117 changes in the information previously provided by the applicant, or

118 questions raised as the result of appraisals, pest inspections, water or
119 sewer tests, engineering reports or reports of a similar nature.

120 (4) If an applicant chooses to change the type or amount of a first
121 mortgage loan for which application is made, or does not qualify for a
122 particular type or amount of first mortgage loan and chooses to apply
123 for another, any mortgage rate lock-in [agreement] shall be void and
124 any subsequent rate lock-in shall be evidenced by a new [written
125 agreement] mortgage rate lock-in and the application shall be
126 considered a new application for the purposes of sections 36a-705 to
127 36a-707, inclusive, as amended by this act. [, be considered a new
128 application.]

129 (5) A mortgage rate lock-in [agreement] shall not be binding on the
130 mortgage lender in connection with the application for any first
131 mortgage loan which is to be insured or guaranteed by any agency of
132 the federal government or any state or municipal government or quasi-
133 governmental agency in the event the loan program for which the
134 applicant has applied becomes unavailable subsequent to filing an
135 application because of actions taken by that governmental agency. In
136 such cases the applicant shall be entitled to a refund of all funds paid
137 by the applicant which have not actually been expended by the
138 mortgage lender.

139 (6) If the mortgage lender requires that the closing of the first
140 mortgage loan be conducted by a particular attorney or law firm, and
141 that attorney or law firm is not available to conduct the closing before
142 a first mortgage loan commitment period or rate lock-in period
143 expires, the mortgage lender shall extend the first mortgage loan
144 commitment or rate lock-in period until the designated attorney is
145 available to conduct the closing.

146 Sec. 3. (NEW) (*Effective from passage*) No mortgage broker shall
147 collect a rate lock-in fee, except where required by a governmental
148 agency to be collected directly by the mortgage broker, issue a
149 mortgage rate lock-in or otherwise represent to a first mortgage loan

150 applicant or the applicant's representative that the loan will be made at
151 a specified rate if the loan is closed by the expiration of a specified
152 period of time. Notwithstanding the provisions of this section, a
153 mortgage broker may provide a mortgage lender's mortgage rate lock-
154 in to a mortgage loan applicant or the applicant's representative on
155 behalf of such mortgage lender and collect a rate lock-in fee on the
156 mortgage lender's behalf payable to the mortgage lender.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>

BA *Joint Favorable Subst.*